

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: January 14, 2015

+ CRL.M.C. 2966/2013
CUSTOMS

..... Petitioner

Through: Mr. Satish Aggarwala, Advocate

versus

BADRI PRASAD

..... Respondent

Through Mr. Deepak Gandhi & Mr. Ritesh
Chaudhary, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Impugned order of 26th September, 2012, closing petitioner's evidence, is assailed by learned counsel for petitioner on the ground that witness-S.B.Sinha was summoned for 26th September, 2012 but he could not appear on the day because he was unwell. Learned counsel for petitioner submits that for no fault of petitioner, prosecution evidence stands closed to the detriment of petitioner as the evidence of witness-S.B.Sinha is essential for just decision of this case because he was Dy. Superintendent of Police (CBI) and was the Officer, who had recovered 51 slabs of silver worth more than Rupees One Crore and if he is not allowed to be examined then petitioner's case would suffer.

This petition is opposed by learned counsel for respondent by relying upon a decision of Coordinate Bench of this Court in

Crl.M.C.No.806/2012 *Directorate of Revenue Intelligence v. Raghubir Singh & Ors.* decided on 27th March, 2012 and by submitting that for the last two decades this case is pending and trial court has rightly closed petitioner's evidence.

Upon hearing and on perusal of impugned order, material on record and decision cited, I find that in view of gravity of offence, recording of evidence of witness-S.B.Sinha is essential for just decision of the case, therefore, impugned order 26th September, 2012 is quashed and petitioner is granted two effective opportunities to get witness-S.B.Sinha examined as prosecution witness.

With aforesaid direction, this petition stands disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 14, 2015

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